IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5872 OF 2005

Dharmendra Ganpatrao Raval ...Applicant
Vs.
The State of Maharashtra ...Respondent

Smt Revati Mohite-Dere for the Applicant.
Shri A.S. Gadkari, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : OCTOBER 11, 2005.

P.C.:

1. Heard the learned Advocate appearing for the Applicant and the learned A.P.P. for the State. By order dated 03rd October, 2005 this court had directed production of statement of Sharda Santosh Bankhele recorded under section 164 of the Code of Criminal Procedure, 1973 before the learned Judicial Magistrate, First Class at Junnar. Accordingly, the original statement is produced before me in a sealed envelope.

2. The learned Advocate appearing for the Applicant submitted that the said statement of said Sharda who is the original complainant is totally contrary to the prosecution case. The Advocate for the Applicant, therefore, submitted that as the statement of the complainant is completely contrary to the F.I.R., the Applicant is entitled to be enlarged

on bail. The learned A.P.P. pointed out the material on record and opposed the Application.

3. I have considered the submissions. According to the first informant Sharda, the case is that her son Omkar left the house to visit a fair on 06th September, 2004 at about 01.30 p.m. However, her son did not come back. On the next day, she was informed that her son was sleeping at the backside of her house. When the first informant visited the spot, she found that her son was lying dead in gunny bag near the house of one Nilesh Shah. It is the case made out in the F.I.R. that on three consecutive days three unknown persons came to her house and inquired about the whereabouts of her husband. It is stated that the first informant suspected the said three persons of have committed murder of her son. In the statement under section 164 of the said Code of 1973 the first informant has however come out with altogether different version. She has implicated altogether different persons in the statement under section 164 of the said Code of 1973.

4. The Applicant has been arrested on 10th September, 2005. It is pertinent to note that the said Sharda is also implicated as a co-accused

alongwith the Applicant.

5. In view of this position, the Applicant is entitled to be enlarged on bail. Accordingly, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with **C.R.No.53 of 2004 registered with Otur Police Station,** subject to furnishing a personal bond of **Rs.10,000/-** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

iii) The Applicant shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

iv) Any observation made in this order shall not

be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) Application is disposed of in above terms.

vi) The statement under section 164 of the Code of Criminal Procedure, 1973 which is forwarded to this Court shall be re-sealed and be sent back to the Court of 3rd Adhoc Additional District Sessions Judge, Pune.

vii) The parties to act upon an authenticated copy of this order.

JUDGE